

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to violations by a health care facility

The Inspections and Appeals Department hereby amends Chapter 56, “Fining and Citations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2172.

Purpose and Summary

This amendment updates subrule 56.3(4) in accordance with changes included in 2022 Iowa Acts, House File 2172. The legislation updated citations to administrative rules subject to exception from provisions related to the self-identification and correction of deficiencies by health care facilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 25, 2023, as **ARC 6835C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on April 3, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 7, 2023.

The following rule-making action is adopted:

Amend subrule 56.3(4) as follows:

56.3(4) *Self-identification and correction of a class II or class III violation prior to the on-site inspection.*

a. Self-identification and correction. If a facility self-identifies a deficient practice prior to the on-site visit inspection, there has been no complaint filed with the department related to that specific deficient practice, and the facility corrects such practice prior to an inspection, no citation shall be issued or fine assessed for class II or III violations except for those penalties arising pursuant to paragraphs “a” to “f”: as identified in Iowa Code section 135C.36(5).

a. Abuse:

- (1) Rule 481—57.39(135C);
- (2) Rule 481—58.43(135C);
- (3) 481—subrules 62.23(23) to 62.23(25);
- (4) Rule 481—63.37(135C);
- (5) Rule 481—64.33(235B);
- (6) Rule 481—65.15(135C);
- (7) 481—subrules 65.25(3) to 65.25(5); and
- (8) 42 CFR Section 483.420(d).

b. Personnel histories:

- (1) Iowa Code section 135C.33;
- (2) 481—subrule 57.12(3);
- (3) 481—subrule 58.11(3);
- (4) 481—subrule 62.9(5);
- (5) 481—subrule 63.11(3);
- (6) Rule 481—64.34(135C); and
- (7) 481—subrule 65.9(5).

c. Failure to implement physician’s orders as required:

- (1) 481—paragraph 57.12(2) “d”;
- (2) 481—paragraph 58.19(2) “h”;
- (3) 481—paragraph 62.15(1) “a”;
- (4) 481—paragraph 63.11(2) “d”;
- (5) 42 CFR Section 483.460(e)(4).

d. Failure to notify the physician of any accident, injury, or adverse change in a resident’s condition:

- (1) 481—subrule 57.15(5);
- (2) 481—subrule 58.14(5); and
- (3) 481—paragraph 62.19(2) “e.”

e. Failure to administer all medications as ordered by the resident’s physician:

- (1) 481—paragraph 57.12(2) “d”;
- (2) 481—paragraph 58.19(2) “a”;
- (3) 481—paragraph 63.11(2) “d”;
- (4) 481—subrule 64.4(9); and
- (5) 42 CFR Section 483.460(e)(4).

f. Failure to meet the fire safety rules and regulations promulgated by the state fire marshal:

- (1) 481—paragraph 58.28(1) “a”;
- (2) 481—subrule 62.19(7);
- (3) 481—paragraph 63.23(1) “a”;
- (4) 42 CFR Section 483.470(j).

g. b. Process for documenting self-identification. If, during the inspection, an area of concern is identified to the facility that was self-identified and corrected by the facility prior to the inspection, no complaint has been filed, and the violation does not fall in the exemptions listed in 481—paragraphs

~~56.3(4) “a” to “f.”~~ Iowa Code section 135C.36(5), the facility shall complete a “Self-Identification and Correction Form” and submit it to the inspector(s) prior to the conclusion of the inspection, or to the department within two working days of the exit interview via ~~E-mail~~ email, facsimile, or overnight courier. The documentation shall include:

- (1) The nature of the problem;
- (2) The date the problem was identified;
- (3) Who identified the problem, i.e., family, resident, staff, physician, pharmacist;
- (4) Action steps taken to correct the problem;
- (5) ~~Date~~ The date the facility determined correction was completed; and
- (6) All documentation that substantiates the above information.

[Filed 4/3/23, effective 6/7/23]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/3/23.